

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

SECOND APPEAL NO. 252 OF 2005

Suresh Venkappa Jadhav. ... Appellant.

Versus

Bhimrao Santu Mane. ... Respondent.

Mr. Vijay Gharat for the Appellant.

Mr. P. G. Lad for Respondent Nos.1A to 1F.

CORAM : ANOOP V. MOHTA, J.

DATED : 25TH NOVEMBER, 2005.

P.C.:

Heard.

2. There is a concurrent finding given by both the courts in reference to agreement dated 28th May, 1975 in respect of land bearing Gat No. 198 admeasuring 6H and 10 R. that no specific performance as prayed can be granted and therefore the appellate court has also confirmed the order of dismissal of the suit of specific performance.

3. One basic aspect requires to be considered while considering the prayer for specific performance that it is always a discretion of the court to consider all relevant facts and circumstance of the case to grant specific performance or not. The findings given by both the courts, as pointed out and as borne out from the record nowhere suggest any perversity. The orders passed by both the courts are based on the existing evidence on record as well as of fact. Therefore, those issues, if answered and if taken note of, I am inclined not to interfere with the concurrent findings given by both the courts below. There is no substantial question of law raised. The order impugned is within the framework of law and record need no interference. In view of this second appeal is dismissed.

Sd/-

(ANOOP V. MOHTA, J.)